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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,246	07/30/2001	Richard Alan Haase		3290

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EXAMINER

HRUSKOCI, PETER A

ART UNIT	PAPER NUMBER
1724	5

DATE MAILED: 07/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

MFC

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/918,246	HAASE, RICHARD ALAN
	Examiner Peter A. Hruskoci	Art Unit 1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 30 July 2001 and 10 October 2001.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 29-51 is/are pending in the application.
  - 4a) Of the above claim(s) 48 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 29-47 and 49-51 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 29-51 are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                           | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5 . | 6) <input type="checkbox"/> Other: _____                                    |

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1. Claims 39-52 have been renumbered as claims 38-51 in accordance with 37 CFR 1.126, since claim 38 was not included in the Amendment dated 7-30-01

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 29-47 and 49-51, drawn to a system, classified in class 210, subclass 96.1.

II. Claim 48, drawn to a method, classified in class 210, subclass 696.

3. The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the system as claimed can be used to practice a materially different method such as a method for recovering metals from waste solutions.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and recognized divergent subject matter, restriction for examination purposes is proper.

5. During a telephone conversation with Robert M. Bowick on 1-10-02 a provisional election was made without traverse to prosecute the invention of Group I, claims 29-47 and 49-51. Affirmation of this election must be made by applicant in replying to this

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Office action. Claim 48 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Claim 33-37, 39, and 41-45 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 33-35, 39, 41-43, and 45 “the number”, in claim 39 “the required amounts”, and in claim 44 “the phosphate polymers”, lack clear antecedent basis. In claim 37 “with at least of the chemicals”, in claim 36 “claim 36”, in claims 39 and 30 “claim 38”, and in claim 45 “low” are vague and indefinite because it is unclear how these terms further limit the claims.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 29-31, 33-39, 41-47, and 49-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ray et al. in view of Martin and Persinski et al. Ray et al. disclose (see col. 3 line 20 through col. 4 line 32) a potable water treatment system substantially as claimed. The claims differ from Ray et al. by reciting that the system includes a measuring device for measuring the flow rate or a characteristic of potable

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water, and the pump is in fluid communication with a source of dispersant chemical.

Martin discloses (see col. 3 line 63 through col. 5 line 24) that it is known in the art of water treatment to utilize a flow transmitter and pH meter in communication with a microprocessor controller to control a pump for feeding of water treatment chemicals to a water line proportional to the rate of water flow. Persinski et al. disclose (see col. 3 line 13 through col. 5 line 11) that it is known in the art of water treatment to utilize acrylic polymers and inorganic phosphates as precipitation inhibitors or dispersants to aid in inhibiting scale and corrosion in aqueous systems. It would have been obvious to one skilled in the art to modify the system of Ray et al. by including the recited measuring device and dispersant chemical in view of the teachings of Martin and Persinski et al., to aid in controlling scale and corrosion in the system. The specific type of pump utilized and the specific location of the filter, would have been an obvious matter of engineering design to one skilled in the art, depending on the specific water treated and results desired, absent a sufficient showing of unexpected results.

9. Claims 32 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ray et al. in view of Martin and Persinski et al. as above, and further in view of White. The claims differ from the references as applied above by reciting that the filter comprises specific materials. White discloses (see col. 1 line 10 through col. 4 line 3) that it is known in the art of water treatment to utilize the recited filter materials to aid in

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removing contaminants from water. It would have been obvious to one skilled in the art to modify references as applied above by including the recited filter materials in view of the teachings of White, to aid in removing contaminants from the water.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter A. Hruskoci whose telephone number is (703) 308-3839. The examiner can normally be reached on Monday through Friday from 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Simmons, can be reached on (703) 308-1972. The fax phone number for this Group is (703) 305-7718.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651 .

*Peter A. Hruskoci*  
**Peter A. Hruskoci**  
**Primary Examiner**  
**Art Unit 1724**

P. Hruskoci  
January 10, 2002